



6450-01-P

DEPARTMENT OF ENERGY

Western Area Power Administration

Final 2018 Olmsted Power Marketing Plan and Call for Applications

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Final 2018 Olmsted Power Marketing Plan and Call for Applications

SUMMARY: Western Area Power Administration (WAPA), a Federal power marketing agency of the Department of Energy, announces its Final 2018 Olmsted Power Marketing Plan and Call for Applications for an allocation of energy from the Olmsted Powerplant Replacement Project.

DATES: Applications and Applicant Profile Data are due [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] to be assured of consideration by WAPA.

ADDRESSES: Send applications to: Ms. Lynn Jeka, CRSP Manager, CRSP Management Center, Western Area Power Administration, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111-1580. Applications may also be faxed to (801) 524-5017 or e-mailed to jeka@wapa.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Brent Osiek, Power Marketing Manager, (801) 524-5495; or Mr. Lyle Johnson, Public Utilities Specialist, (801) 524-5585.

Written requests for information should be sent to CRSP Management Center, Western Area Power Administration, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111-1580; faxed to (801) 524-5017; or e-mailed to ljohnson@wapa.gov.

SUPPLEMENTARY INFORMATION: The United States acquired the Olmsted Powerplant in 1990 through condemnation proceedings in order to secure the water rights associated with the

Olmsted Powerplant deemed essential to the Central Utah Project (CUP). The CUP is a participating project of the Colorado River Storage Project. As part of the condemnation proceedings, PacifiCorp continued Olmsted operations until 2015; after which time, the operation of the facility became the responsibility of the Bureau of Reclamation.

The existing Olmsted Powerplant greatly exceeded its operational life, and a replacement facility was needed for the generation of power and preservation of associated non-consumptive water rights. On February 4, 2015, an Implementation Agreement (Agreement) for the Olmsted Powerplant Replacement Project (Project) was signed by Central Utah Water Conservancy District (District), the Department of the Interior, Bureau of Reclamation, and WAPA (Participants). The Agreement sets forth the responsibilities of the Participants and identifies funding of the Project. The District will construct, operate, maintain, and replace the Olmsted Powerplant and incidental facilities in connection with its CUP operations, including power generation.

WAPA is responsible for marketing the Olmsted energy, which is anticipated to be first available in the summer of 2018. Power production will be incidental to the delivery of water and will only be available when water is present. Therefore, only energy, without capacity, will be available for marketing. It is expected that the annual energy production from the replacement Olmsted Powerplant will average around 27,000,000 kWh per year.

Response to Comments on the Olmsted Proposed Marketing Criteria:

WAPA received numerous comments on its Proposed 2018 Olmsted Power Marketing Plan during the comment period. WAPA reviewed and considered all comments received, and this section summarizes and responds to the comments received. For brevity, when it was possible to do so without affecting the meaning of the statements, the public comments below were

paraphrased.

Comment: Can WAPA explain how it determined the marketing area? How were certain Utah counties picked? Is it based on the Provo River drainage? Why were Davis, Weber, Morgan, and Summit counties included?

Response: Because of the small amount of energy available from the Project, the marketing area was limited to the Utah counties in the vicinity of the powerplant in order to avoid costly transmission and to ensure that entities receiving an allocation would benefit from the energy while at the same time creating a marketing area sufficiently large enough to ensure wide-spread use of the Federal resource.

Comment: Would there be a benefit to WAPA if a group of eligible applicants were to work together and submit a combined application with a recommended allocation?

Response: WAPA will not discourage a combined application. However, WAPA will consider the loads and resources of the entities participating in a combined application in the same way it would consider individual applications.

Comment: The marketing plan states that “priority” will be given to the plant operator, which is the Central Utah Water Conservancy District (District). The commenter supported this “priority or preference” to the District and asked if there are other criteria to be considered by WAPA in giving another utility a similar priority or preference.

Response: There are no other circumstances that will create priority.

Comment: Priority should be given to the District as the operator of the Olmsted Powerplant.

Response: Thank you for your comment.

Comment: Were applicants expected to apply for an allocation on or before the March 2, 2017, date or will there be another process or timetable to apply for an allocation? Will there be other

details about the application process, or will a simple statement of interest as a ready, willing, and able utility be sufficient?

Response: Details about how to apply for an allocation are provided in this Notice. Applicants will be asked to complete WAPA's Applicant Profile Data form.

Comment: It would be beneficial if WAPA could expedite the Olmsted Power Marketing Plan process so the awarded entities would have sufficient time to complete the details on transmission and distribution services, scheduling, and reserves for delivery of the Olmsted Powerplant energy.

Response: WAPA will work to complete this process as quickly as possible while meeting public process requirements.

Comment: One commenter, as the representative for its members who are also participants in the CRSP, noted it does not have any major issues with the plan.

Response: Thank you for your comment.

Comment: One commenter expressed concern that WAPA would "take into consideration all existing Federal hydropower allocations an applicant is currently receiving when determining the Olmsted allocation." The commenter proposed that allocations be proportionate to other existing Federal allocations.

Response: In order to assure widespread use for Federal power resources, WAPA will consider the percentage of a customer's total load currently being met with Federal power through other allocations the customer may have. Applicants with larger proportions of load served with Federal power may, therefore, receive a relatively smaller percentage allocation of Olmsted energy and vice versa.

Comment: One commenter asked for clarification of the specific marketing criteria and

administrative discretion referred to under Reclamation Law and further stated: “We assume these marketing criteria and administrative discretion includes the responsibilities and contributions of the parties referred to in the Olmsted Implementation and Funding Agreements and the responsibilities and contributions in these agreements pertain more specifically for this Project and should be considered with more priority.”

Response: WAPA’s Administrator has discretion to provide allocations of electricity pursuant to the body of legislation known as Reclamation Law. No other marketing commitments are made; however, WAPA did provide that the District would receive priority in receiving an allocation.

Comment: A commenter expressed support for the marketing area identified in the Federal Register Notice (FRN) and asked if the District, whose headquarters are in the marketing area, can serve not only its facilities within the boundaries of the marketing plan but also those that extend beyond the marketing area. The commenter suggested that the marketing plan allow it to serve its loads located within Uintah and Duchesne counties with Olmsted energy.

Response: Any allocations will be based on loads that are within the marketing area.

Comment: A separate ratesetting process is required. It is critical that the rate action be completed in a timely manner so that it could be ready to receive energy before it is generated in 2018. It is imperative for the marketing of the energy from Olmsted Powerplant that the rate methodology be competitive in the current power supply market but also sufficient to reimburse the District for the OM&R of the Project.

Response: WAPA intends to have the ratesetting process proceed concurrently with the completion of the Marketing Plan process.

Comment: Several comments were received supporting WAPA’s proposal to allocate customers a percentage of the energy produced annually and pay the proportional percentage of the

Project's annual operation and maintenance expenses.

Response: WAPA appreciates the support of its proposed rate methodology.

Comment: One commenter stated, "it makes excellent sense to offer this non-dispatchable resource as a percentage of the total energy available."

Response: Thank you for your comment.

Comment: A commenter claimed it should receive priority for an allocation from Olmsted because it established a vested interest in the facilities as it expended funds many years ago in an unsuccessful attempt to obtain a license from the Federal Energy Regulatory Commission (FERC) to operate the Olmsted Powerplant. Its effort was abandoned when the Olmsted facilities were to be acquired by the Federal government.

Response: Under Reclamation Law, the expenditure of funds trying to obtain a FERC license to operate the Olmsted Powerplant does not establish a priority for an allocation from any future power generation.

Comment: What is the "marketing criteria" under Reclamation Law and can this be described?

Response: WAPA markets Federal hydropower through the authority given it by the body of law known as Reclamation Law including, but not limited to, the Acts of Congress approved June 17, 1902 (32 Stat. 388); the Reclamation Act of 1939, dated August 4, 1939 (53 Stat. 1187); the Department of Energy Organization Act, dated August 4, 1977 (91 Stat. 565); the Energy Policy Act of 1992 (Public Law 102-486); and Acts amendatory or supplementary to the foregoing Acts. Marketing Criteria are developed through a public process and are set forth in this Notice.

Final Olmsted Power Marketing Plan

WAPA will apply the following criteria to applicants seeking an allocation of energy under the

Final 2018 Olmsted Power Marketing Plan:

1. Contract Term: To gain actual generation data and operating experience, the term of the contract will be limited. Service is expected to begin on July 1, 2018, or as soon as the Project is declared commercially operable; and the contract term will be effective through September 30, 2024.
2. Marketing Area: Due to the relatively small size of the resource and its operating characteristics, eligible applicants must be preference entities in accordance with section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) and located within the following counties in Utah: Davis, Morgan, Salt Lake, Summit, Utah, Weber, and Wasatch.
3. Delivery Point: 12.47-kV bus at PacifiCorp's Hale Substation or another substation as agreed by WAPA.
4. Transmission: Any associated transformation/transmission beyond the Delivery Point is the sole responsibility of the applicant. Applicants must have the necessary arrangements for transmission and/or distribution service in place by April 1, 2018.
5. Eligible Applicants: WAPA will provide allocations only to preference entities in the marketing area. WAPA, through the public process, will determine the amount of energy, if any, to allocate in accordance with the marketing criteria and administrative discretion under Reclamation Law. Priority will be given to the District as the operator of the Olmsted Powerplant.
6. Resource Pool: WAPA will take into consideration all existing Federal hydropower allocations an applicant is currently receiving when determining each allocation. Allocations of Olmsted energy will be determined solely by WAPA. Applicants who receive an allocation will be allocated a percentage of the annual energy output of the Powerplant.

7. Preference Entities: Preference will be given to entities in accordance with section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), as amended and supplemented, including municipalities, rural cooperatives, and political subdivisions including irrigation or other districts, municipalities, and other governmental organizations that have electric utility status by April 1, 2018; and, Federally recognized Native American tribes as defined in the Indian Self Determination Act of 1975, 25 U.S.C. 5304, as amended. “Electric utility status” means that the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase Federal power from WAPA on a wholesale basis.
8. Ready, Willing, and Able: Eligible applicants must be ready, willing, and able to receive and distribute or use energy from WAPA. Ready, willing, and able means the applicant has the facilities needed to receive power or has made the necessary arrangements for transmission and/or distribution service, and its power supply contracts with third parties permit the delivery of WAPA’s power.
9. Rates and Payment: A proposed ratesetting methodology will be published in a separate FRN.

Call for Applications for Power

This Notice formally requests applications from eligible entities seeking to purchase Federal power from Olmsted. WAPA is requesting that its Applicant Profile Data (APD) form be used to provide a uniform basis for evaluating applications. APD forms are available upon request or may be accessed online at www.wapa.gov/PowerMarketing/Documents/Applicant-Profile-Data-form.pdf. See the ADDRESSES section for where to send applications. To be considered, entities must submit an application to the Western Area Power Administration, CRSP Management Center, as requested below. To ensure full consideration for all applicants, WAPA

reserves the right not to consider applications submitted before publication of this Notice or after the deadline specified in the DATES section.

Applicant Profile Data Application

The content and format of the APD form are outlined below. Applicants must provide all requested information, or the most reasonable available estimate, or should indicate “not applicable” if they have no information to be considered for a requested item. WAPA is not responsible for errors in data or missing pages. All items of information in the APD form should be answered as if prepared by the entity seeking the allocation. The APD form includes the following:

1. Applicant: (a) Applicant’s (entity requesting a new allocation) name and address.
(b) Person(s) representing applicant: Please provide the name, title, address, telephone and fax numbers, and e-mail address of such person(s). (c) Type of organization: For example, Federal or state agency, irrigation district, municipality, Native American tribe, public utility district, or rural electric cooperative. (d) Parent organization of applicant, if any. (e) Name of members or suballottees, if any. (f) Applicable law under which the organization was established. (g) Applicant’s geographic service area. If available, submit a map of the service area, and indicate the date prepared. (h) Describe the entity/organization that will interact with WAPA about contract and billing matters. (i) The amount of power the applicant is requesting to be provided by WAPA.
2. Loads: (a) If applicable, number and type of customers served in one of the last 3 calendar years including calendar years 2014, 2015, or 2016; e.g., residential, commercial, industrial, military base, agricultural. (b) The actual monthly maximum demand (in kilowatts) and energy use (in kilowatthours) experienced in one of the last 3 calendar years including

calendar years 2014, 2015, or 2016. (c) For Native American tribe applicants, if actual demand and energy data are not available, provide estimated monthly demand (in kilowatts) with a description of the method and basis.

3. Resources: (a) A list of current Federal power supplies. For each supply, provide the amount of capacity received from that power supply and its location. (b) Status of power supply contract(s), including a contract termination date. Indicate whether power supply is on a firm basis or some other type of arrangement.
4. Transmission: (a) Point of delivery: Olmsted energy will be delivered at PacifiCorp's Hale Substation at 12.7-kV or another substation as agreed by WAPA. (b) Transmission arrangement: Describe the applicant's transmission arrangements necessary to deliver power to the requested points of delivery beyond WAPA's transmission system. (c) Provide a brief explanation of the applicant's ability to receive and use, or receive and distribute, Federal power as of April 1, 2018.
5. Other Information: The applicant may provide any other information pertinent to receiving an allocation.
6. Signature: The signature and title of an appropriate official who is able to attest to the validity of the APD and who is authorized to submit the request for an allocation is required.

WAPA's Consideration of Applications

Upon receiving the APD, WAPA will verify that the applicant meets the eligibility criteria and that the application contains all information requested in the APD form. WAPA may request, in writing, additional information from any applicant whose APD is determined to be deficient. The applicant will have 15 calendar days from the date on WAPA's letter of request to provide the information. If WAPA determines the applicant does not meet the eligibility criteria,

WAPA will send a letter explaining why the applicant did not qualify. If the applicant has met the eligibility criteria, WAPA will determine the amount of power, if any, to allocate in accordance with the marketing criteria. WAPA will send a draft contract to the applicant that identifies the terms and conditions of the offer and the amount of power allocated to the applicant.

Availability of Information

The APD form and documents developed or retained by WAPA during this public process will be available, by appointment, for inspection and copying at the CRSP Management Center, located at 150 East Social Hall Avenue, Suite 300, Salt Lake City, Utah.

Procedural Requirements

Environmental Compliance

In compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321-4347), the Council on Environmental Quality Regulations (40 CFR parts 1500-1508), and DOE NEPA Regulations (10 CFR 1021), WAPA issued a Finding of No Significant Impact (FONSI) on January 13, 2017. The FONSI and other NEPA compliance documentation may be found at <https://www.wapa.gov/regions/CRSP/environment/Pages/environment.aspx>.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601, et seq., requires a Federal agency to perform a regulatory flexibility analysis whenever the agency is required by law to publish a general notice of proposed rulemaking for any proposed rule unless the agency can certify that the rule will not have a significant economic impact on a substantial number of small entities. In defining the term “rule,” the RFA specifies that a “rule” does not include “a rule of particular applicability relating to rates [and] services . . . or to valuations, costs or accounting, or

practices relating to such rates [and] services” 5 U.S.C. 601. WAPA has determined that this action relates to rates or services offered by WAPA and, therefore, is not a rule within the purview of the RFA.

Review Under the Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 94 Stat. 2812, WAPA received approval from the Office of Management and Budget (OMB), under control number 1910–5136, to collect customer information through WAPA’s Applicant Profile Data in order to allocate Federal hydropower.

Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Dated: August 18, 2017.

Mark A. Gabriel,
Administrator.

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